

Message Text

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ACTION NEA-16

INFO OCT-01 ISO-00 L-03 EB-12 SP-03 SS-20 INR-11 DRC-01

RSC-01 /068 W

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P 041700Z OCT 74

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC PRIORITY 4304

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E.O. 11652: N/A

TAGS: PFOR, IN, US

SUBJECT: JOINT COMMISSION: PL 92-463

REFS: A. STATE 207588 B. STATE 211425

FOR KUX NEA/INS

1. WE DO NOT WISH TO QUESTION YOUR DECISION TO GO FOR A JOINT CHAMBER OF COMMERCE. HOWEVER, WE FOUND A COPY OF THE LAW AND HAVE SOME QUESTIONS, THE ANSWERS TO WHICH MAY HAVE A BEARING ON HOW WE MANAGE THE SUBCOMMISSIONS HOWEVER ORGANIZED.

2. OUR QUESTIONS RELATE TO THREE ISSUES: (A) WHETHER THE INDO/US JOINT COMMISSION WOULD BE AN "ADVISORY COMMITTEE" AT ALL WITHIN THE MEANING OF THAT STATUE; (B) IF SO, WHETHER THE STATUTE WOULD INDEED PRECLUDE PARTICIPATION BY A LIMITED NUMBER OF SELECT PRIVATE REPRESENTATIVES; AND (C) HOW THE "OPEN-ENDED" PARTICIPATION SOLUTION (PARA TWO, REF A) WOULD GET US AROUND THE PUBLIC MEETING/RECORDS REQUIREMENT.

3. ON OUR FIRST QUESTION, WE WOULD APPRECIATE YOUR CONFIRMATION OR CLARIFICATION AS TO WHETHER INTERNATIONAL BILATERAL JOINT COMMISSIONS ARE CONSIDERED WITHIN THE SCOPE OF THE STATUTE. IN OTHER WORDS, IT SEEMS TO US THAT SUCH JOINT COMMISSIONS ARE,

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VERY ARGUABLY, NOT ORGANIZED SO MUCH "IN THE INTEREST OF OBTAIN-

ING ADVICE OR RECOMMENDATIONS" FOR THE EXECUTIVE BRANCH (SECTION 3 OF THE STATUTE) AS THEY ARE IN THE INTEREST OF EXCHANGES OF VIEWPOINTS AND IDEAS BETWEEN GOVERNMENTS. WE WONDER IN THIS CONNECTION WHETHER THE JOINT COMMISSIONS ON S&T WE HAVE WITH, E.G., THE USSR, YUGOSLAVIA, POLAND AND ISRAEL ARE CONSIDERED FOR ALL PURPOSES WITHIN THE STATUTE.

4. ON OUR SECOND QUESTION, ASSUMING THAT THE STATUTE DOES APPLY TO THE UPCOMING INDO-US JOINT COMMISSION, WE DON'T SEE WHAT PRECLUDES PARTICIPATION BY A LIMITED NUMBER OF SELECT PRIVATE SECTOR REPRESENTATIVES. IS IT SOME IMPLEMENTING "RULE, ORDER OR REGULATION" OF THE TYPE ENVISIONED IN SECTION 4(A) OF THE STATUTE? IF SO, WOULD YOU LET US HAVE THE CITATION AND AN EXTRACT OF THE KEY LANGUAGE?

5. FINALLY, WE ALSO DO NOT SEE FROM THE STATUTE HOW THE "OPEN-ENDED" APPROACH WOULD BRING ON THE CONSEQUENCE OF PUBLIC MEETINGS AND RECORDS WHEREAS (PRESUMABLY) THE "SELECT" APPROACH WOULDN'T. IF PL 92-463 APPLIES, LE NOTE, E.G., THAT SECTION 10(A)(1) THEREOF SAYS FLATLY: "EACH ADVISORY COMMITTEE MEETING SHALL BE OPEN TO THE PUBLIC." COULD YOU CLARIFY THESE POINTS?
SCHNEIDER

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ORGANIZATION & MANAGEMENT, COMMITTEES, INTERGOVERNMENTAL COOPERATION, CHAMBERS OF COMMERCE
Control Number: n/a
Copy: SINGLE
Draft Date: 04 OCT 1974
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CollinP0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974NEWDE13304
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740281-0840
From: NEW DELHI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741072/aaaacjpn.tel
Line Count: 83
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: STADIS
Reference: A. STATE 207588 B. STATE 211425
Review Action: RELEASED, APPROVED
Review Authority: CollinP0
Review Comment: n/a
Review Content Flags:
Review Date: 16 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16 AUG 2002 by izenbei0>; APPROVED <05 MAR 2003 by CollinP0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: JOINT COMMISSION: PL 92-463
TAGS: PFOR, ETRD, IN, US
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005